

ID: CCA-121920-08

Number: **200913050**

Office:

Release Date: 3/27/2009

UILC: 6223.00-00

From:

Sent: Friday, December 19, 2008 11:58 AM

To:

Cc:

Subject: RE: Each Investor is to receive a copy of Explanation of adjustments

Every notice partner is entitled to the FPAA in addition to the TMP. In addition to the numbers on the Schedule of Adjustment, there has to be sufficient explanation of the grounds for adjustment to avoid having the burden of proof shifted to the government under *Shea v. Commissioner*. Its possible for the "Remarks" section of the FPAA to satisfy this explanation requirement. If it doesn't, we need to include an explanation of adjustments with every FPAA that is issued. Referring the notice partners to the Explanation of Adjustments given to the TMP may not satisfy our requirement to explain the basis for the adjustments in a notice that can be petitioned.

With the above in mind, the Explanation of Adjustments attached to the FPAA's need not be lengthy or detailed. If we have a 100 page report, we can use a summary Explanation of Adjustment instead. Instead of the complete engineers valuation report, the summary could just state that we determined the fair market value was x instead of y based on an analysis of comparable sales, etc. and that this was the basis for reallocating sales proceeds, etc.